

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA :

Plaintiff :

v. :

: CIVIL NO. 98-1664 (CCC)

: CIVIL NO. 98-2344 (CCC)

33,92536 ACRES OF LAND, MORE :
OR LESS, SITUATED IN VEGA BAJA, :
COMMONWEALTH OF PUERTO RICO, :
AND JUAN PIZA BLONDET, AND :
UNKNOWN OWNERS :

Defendants :

DEPOSITION OF:

JULIO TORO MCCOWEN

was taken on April 7, 2006 at the offices of the UNITED
STATES ATTORNEY FOR THE DISTRICT OF PUERTO RICO, Torre
Chardon, Chardon Avenue, Hato Rey, Puerto Rico,
commencing at 9:38 a.m.

BONAFIDE REPORTING SERVICE
PO BOX 11850
SUITE 236, SAN JUAN, PR 00922-1850
(787)250-8507

EXHIBIT

"D"

1 Planning Board.

2 EXAMINATION CONTINUED

3 BY MR. PIZA:

4 Q Meaning a variant, is that what they call it
5 here?

6 A A rezoning.

7 Q In your experience, what it's called, the
8 zoning office?

9 A It's called the Bureau of Land Use.

10 Q And they are the ones that award variances?

11 A They meet two or three times a year to
12 consider these cases.

13 Q Are they common, are they very common in
14 Puerto Rico, variances?

15 A In these coastal area, each time it's getting
16 harder to get them.

17 Q In '98 going back, towards the past, were
18 variances common?

19 A It wasn't as difficult as it is now. As all
20 these issues have come up, all these conflicts between
21 development and the coastal zone, the state has realized
22 that if we continued with that practice, we were going
23 to seriously impact our estuary system, our coastal
24 estuaries and our marine eco systems.

1 break?

2 (A recess was taken at this time.)

3 EXAMINATION CONTINUED

4 BY MR. PIZA:

5 Q A quick question about the technician. After
6 the regulations became stricter, after '98, from '98 on,
7 does the technician now go to the field and checks and
8 corroborates the information?

9 A The technicians from the Earth Crust Division
10 always go to the field. In issues of flora and fauna,
11 since I have three employees who have been there for
12 less than three years, I go with them to the field,
13 always.

14 Q But before '98, that was not the case?

15 A We would go to the field but one of the
16 conditions I had in order to accept the direction of the
17 division was that I be able to bring over a biologist
18 from the Technical Assessment Division so that he could
19 go to the field with them.

20 Q But I'm referring to cases in which the
21 technicians did not go.

22 A Like I expressed before, that happens in other
23 divisions.

24 Q I'm going to give you an example here, and

1 we're talking about the same place. We have two squares
2 here. It's the same property and this is based on your
3 experience as the Director of Earth Crust.

4 A You mean as a technician of the department?

5 Q Yes, correct.

6 A Not exclusively as --

7 Q Your experience in general, your capacity
8 based on what you work on.

9 A You mean further than my responsibilities as
10 director of a division?

11 Q What you have knowledge of.

12 A Okay.

13 Q In this case, this represents a tower, here
14 there is a small, little house and this is a slab of
15 cement or a parking, a cement slab, something similar to
16 that, there is something here, the cables, the anchorage
17 to hold it in place, the tower, and this is the same
18 place but with nothing on it, obviously we've already
19 established that there has been an impact on the one
20 that has the tower.

21 A Yes.

22 Q An environmental impact, obviously.

23 A Yes.

24 Q Okay. I apply in this case, the one that has

1 the things on it, for a sand extraction permit and we're
2 talking about 1998 or before that and I also apply for a
3 permit in the one that doesn't have anything for a sand
4 extraction, which of the two would be easier to obtain?

5 A The place that is already impacted.

6 Q Okay.

7 A If both places are the same. I think they're
8 pretty much the same, '94 and '99, they're pretty much
9 the same.

10 Q Where is the -- The antenna --

11 A It's around B2, around that area, the antenna
12 is, more or less, here. The closest that we're going
13 towards the lagoon, the closer we get to the lagoon, the
14 environment will be more sensitive. One cannot make an
15 assumption categorically like that, no.

16 Q Is CR more, environmentally more sensitive
17 than B2?

18 A We're going back to zoning issues of the
19 Board.

20 CROSS EXAMINATION

21 BY MR. TAPICK:

22 Q Mr. Toro, your office recently moved
23 locations from one building in Old San Juan to its
24 present location in Rio Piedras, is that correct?